

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 1140**

Introduced by Mello, 5.

Read first time January 19, 2012

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to the Professional Landscape Architects Act; to  
2 amend sections 81-8,184, 81-8,185, 81-8,186, 81-8,189,  
3 81-8,190, 81-8,191.01, 81-8,192, 81-8,193, 81-8,195,  
4 81-8,196, 81-8,197, 81-8,198, 81-8,199, 81-8,200,  
5 81-8,200.01, 81-8,200.02, 81-8,201, 81-8,202, 81-8,203,  
6 81-8,204, 81-8,205, 81-8,206, and 81-8,208, Reissue  
7 Revised Statutes of Nebraska, and section 81-8,194,  
8 Revised Statutes Cumulative Supplement, 2010; to  
9 eliminate registration of professional landscape  
10 architects; to license professional landscape architects;  
11 to change provisions relating to licensure requirements  
12 and examinations; to harmonize provisions; and to repeal  
13 the original sections.

14 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 81-8,208, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   ~~81-8,208~~ Sections 81-8,184 to ~~81-8,208~~81-8,206 and  
4 section 1 of this act shall be known and may be cited as the  
5 Professional Landscape Architects Act.

6                   Sec. 2. Section 81-8,184, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8                   ~~81-8,184 As used in sections 81-8,184 to 81-8,208, For~~  
9 purposes of the Professional Landscape Architects Act, unless the  
10 context otherwise requires:

11                   (1) Professional landscape architect ~~shall mean~~ means a  
12 person, who, by reason of his or her knowledge acquired by  
13 professional education or practical experience, or both, is qualified  
14 to engage in the practice of professional landscape architecture as  
15 provided in ~~sections 81-8,184 to 81-8,208; the act;~~

16                   (2) ~~The practice~~ Practice of professional landscape  
17 architecture ~~shall mean~~ means the performance of professional  
18 services such as consultations, investigations, reconnaissance,  
19 research, planning, design, or responsible supervision in connection  
20 with projects involving the arranging of land and the elements  
21 thereon for public and private use and enjoyment, including the  
22 alignment of roadways and the location of buildings, service areas,  
23 parking areas, walkways, steps, ramps, pools, and other structures,  
24 and the grading of the land, surface and subsoil drainage, erosion  
25 control, planting, reforestation, and the preservation of the natural

1 landscape and aesthetic values, in accordance with accepted  
2 professional standards of public health, welfare, and safety. ~~This~~  
3 ~~practice shall include~~ Practice of professional landscape  
4 architecture includes the location and arrangement of such tangible  
5 objects and features as are incidental and necessary to the purposes  
6 outlined ~~herein~~ in this subdivision but ~~shall~~ does not include the  
7 design of structures or facilities with separate and self-contained  
8 purposes for habitation or industry, ~~or~~ the design of public streets  
9 and highways, utilities, storm and sanitary sewers, and sewage  
10 treatment facilities, ~~such as~~ which are ordinarily included in the  
11 practice of engineering or architecture, or; ~~and shall not include~~  
12 the making of land surveys or final land plats for official approval  
13 or recording. Nothing contained in ~~sections 81-8,184 to 81-8,208~~ the  
14 act shall preclude a duly licensed professional landscape architect  
15 from performing any of the services ~~described in the first sentence~~  
16 ~~of~~ defined as practice of professional landscape architecture in this  
17 subdivision in connection with the settings, approaches, or  
18 environment for buildings, structures, or facilities. Nothing  
19 contained in ~~sections 81-8,184 to 81-8,208~~ the act shall be construed  
20 as authorizing a professional landscape architect to engage in the  
21 practice of architecture, engineering, or land surveying. Nothing ;  
22 ~~Provided, that nothing in sections 81-8,184 to 81-8,208~~ the act shall  
23 prohibit any ~~persons,~~ person, firm, or corporation, or their  
24 officers, agents, or employees, from preparing planting plans for  
25 plant materials in connection with the sale of nursery stock, plants,

1 trees, shrubs, flowers, sod, or other plant material, outdoor  
2 decorative ornaments, seed, fertilizer, chemicals, gardening tools  
3 and equipment, and related items of merchandise or the propagation,  
4 planting, or growth of any indoor or outdoor plants; and

5 (3) Board ~~shall mean~~ means the State Board of Landscape  
6 Architects created by the ~~provisions of sections 81-8,184 to~~  
7 ~~81-8,208. act.~~

8 Sec. 3. Section 81-8,185, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 81-8,185 (1) No person shall engage in the practice of  
11 professional landscape architecture or use or advertise any sign,  
12 title, or description tending to imply or designate that such a  
13 person is a professional landscape architect unless he or she is  
14 registered licensed as such as provided in sections 81-8,184 to  
15 81-8,208. the Professional Landscape Architects Act. Every holder of  
16 a registration certificate licensee shall display it his or her  
17 certificate of licensure in a conspicuous place at his or her place  
18 of business.

19 (2) Any person holding a certificate of registration  
20 under the act as of the effective date of this act shall be deemed to  
21 be duly licensed under the act until the expiration of such  
22 certificate.

23 Sec. 4. Section 81-8,186, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 81-8,186 There is hereby created a State Board of

1 Landscape Architects consisting of six members who shall be appointed  
2 by the Governor. Five members of the board shall be professional  
3 landscape architects and one member shall be a layperson of the age  
4 of legal majority, ~~who shall represent consumer viewpoints but shall~~  
5 ~~not judge professional competency.~~ All members shall have been  
6 residents of this state for at least one year immediately preceding  
7 their appointments.

8           Sec. 5. Section 81-8,189, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           81-8,189 Members of the board shall serve without  
11 compensation except that they shall ~~receive the~~ be reimbursed for  
12 their actual and necessary travel and incidental expenses incurred in  
13 the discharge of their duties ~~prescribed in sections 81-8,184 to~~  
14 ~~81-8,208 pursuant to the Professional Landscape Architects Act as~~  
15 provided in sections 81-1174 to 81-1177. ~~for state employees.~~

16           Sec. 6. Section 81-8,190, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           81-8,190 The board shall elect annually from its members  
19 a ~~chairman~~ chairperson and a ~~vice-chairman.~~ vice-chairperson. The  
20 board shall meet at least once a year at a time and place fixed by  
21 the board. Three members shall constitute a quorum. The board ~~shall~~  
22 ~~have power to~~ may employ such technical and clerical assistants and  
23 incur such expense as may be necessary to properly carry out the  
24 ~~provisions of sections 81-8,184 to 81-8,208.~~ Professional Landscape  
25 Architects Act.

1           Sec. 7. Section 81-8,191.01, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           81-8,191.01 ~~The State Board of Landscape Architects shall~~  
4 ~~have the power to~~ board may adopt and promulgate ~~all bylaws and rules~~  
5 and regulations, ~~not inconsistent with law,~~ which are needed in  
6 performing its duties. Such rules and regulations ~~shall include,~~ but  
7 are not be limited to, a definition of conflict of interest for board  
8 members and the appropriate procedure to follow when a conflict  
9 arises. The rules and regulations or a code of professional conduct  
10 developed by the board shall also include definitions of or a list of  
11 specific practices which constitute fraud, deceit, gross negligence,  
12 incompetence, or misconduct and the punishments for such practices  
13 which shall be used as the basis to place a professional landscape  
14 architect on probation or revoke or suspend a registration license  
15 pursuant to section 81-8,202.

16           Sec. 8. Section 81-8,192, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           81-8,192 The board shall keep on file a record of all  
19 certificates of registration licensure granted and shall make annual  
20 revisions of such record as may be necessary. On or before January 31  
21 of each year, the board shall file with the Secretary of State a  
22 complete list of those registered licensed under the ~~provisions of~~  
23 ~~sections 81-8,184 to 81-8,208~~ Professional Landscape Architects Act  
24 with their addresses and the dates of ~~the certificate of~~  
25 registration. ~~The list shall be printed and a copy mailed annually to~~

1 ~~every professional landscape architect registered under the~~  
2 ~~provisions of sections 81-8,184 to 81-8,208 and practicing in~~  
3 ~~Nebraska. licensure.~~

4           Sec. 9. Section 81-8,193, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           81-8,193 The board shall adopt and have an official seal  
7 which shall be affixed to all certificates of ~~registration~~ licensure  
8 granted and may ~~make all bylaws and adopt and promulgate rules, not~~  
9 ~~inconsistent with law, and regulations necessary for the proper~~  
10 performance of its such duty.

11           Sec. 10. Section 81-8,194, Revised Statutes Cumulative  
12 Supplement, 2010, is amended to read:

13           81-8,194 (1) The board shall establish fees of not less  
14 than one hundred nor more than three hundred dollars for applications  
15 for ~~registration, licensure, examinations, certificates of~~  
16 ~~registration, licensure, reciprocal registrations, licenses, and~~  
17 renewals based on the administration costs incurred by the board. The  
18 board shall collect, ~~and account for, and remit~~ such fees ~~and pay the~~  
19 ~~same into the state treasury and which, by to the State Treasurer,~~  
20 ~~shall be credited for credit to the State Board of Landscape~~  
21 Architects Cash Fund which is hereby created.

22           (2) Transfers may be made from the State Board of  
23 Landscape Architects Cash Fund to the General Fund at the direction  
24 of the Legislature. Any money in the State Board of Landscape  
25 Architects Cash Fund available for investment shall be invested by

1 the state investment officer pursuant to the Nebraska Capital  
2 Expansion Act and the Nebraska State Funds Investment Act.

3 Sec. 11. Section 81-8,195, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 81-8,195 Applications for ~~registration~~ licensure shall be  
6 on forms prescribed and furnished by the board, and shall contain  
7 statements made under oath, showing the applicant's education and a  
8 detailed summary of his or her technical work. Applications for  
9 ~~registration~~ licensure shall be accompanied by an application fee in  
10 an amount determined by the board.

11 Sec. 12. Section 81-8,196, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 81-8,196 Each applicant for ~~registration~~ licensure as a  
14 professional landscape architect shall complete an application ~~which~~  
15 ~~includes his or her social security number and shall have that~~  
16 includes the following requirements:

17 ~~(1) Graduation from a course of study in landscape~~  
18 ~~architecture of four years or more in a school or college~~  
19 ~~satisfactory to the board. In addition, the applicant shall also~~  
20 ~~submit a specific record of four years or more of practical~~  
21 ~~experience in landscape architecture which is of a grade and~~  
22 ~~character satisfactory to the board. In lieu of graduation from a~~  
23 ~~four year landscape architecture course in school or college, and the~~  
24 ~~additional requirement for practical experience, there may be~~  
25 ~~substituted evidence of at least eight years of practical experience~~

1 ~~which in the opinion of the board has prepared the applicant for~~  
2 ~~examination and registration;~~

3 (1) Proof that the applicant has met the eligibility  
4 standards set by the board in rules and regulations adopted and  
5 promulgated by the board in consultation with the Council of  
6 Landscape Architectural Registration Boards;

7 (2) Successful ~~passing~~ passage of a written, ~~oral,~~ or  
8 ~~written and oral~~ electronic examination in landscape architecture  
9 which is designed to determine the proficiency and qualifications to  
10 engage in the practice of professional landscape architecture; and -  
11 ~~No applicant shall be entitled to take this examination until the~~  
12 ~~applicant's education, training or experience, or both training and~~  
13 ~~experience, have met the requirements of the board;~~

14 (3) ~~Be at least twenty one years of age; and~~

15 (4) ~~Be~~ (3) That the applicant is of good character.

16 Sec. 13. Section 81-8,197, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 81-8,197 Examinations shall be ~~given at stated or called~~  
19 ~~meetings of~~ administered by the board or the Council of Landscape  
20 Architectural Registration Boards at times to be set by the board in  
21 consultation with the council. ~~The board shall adopt and publish the~~  
22 ~~rules and regulations for the scope of the examinations and methods~~  
23 ~~of procedure. The board shall file a report after the close of each~~  
24 ~~examination showing the action of the board upon each application and~~  
25 ~~each applicant shall be notified of the result of his or her~~

1 ~~examination. An applicant who fails an examination may apply for one~~  
2 ~~reexamination at the next examination conducted by the board without~~  
3 ~~payment of an additional fee. Applications for reexamination after a~~  
4 ~~period of one year or subsequent reexaminations may be granted upon~~  
5 ~~payment of a fee in an amount determined by the board.~~

6           Sec. 14. Section 81-8,198, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           81-8,198 Each ~~registrant~~ licensee shall provide himself  
9 or herself with a suitable seal with a uniform inscription thereon  
10 formulated by the board with which he or she shall stamp all plans,  
11 specifications, and reports prepared by him or her. The following  
12 shall be stated on the seal: State of Nebraska, the licensee's name,  
13 the license number, and Professional Landscape Architect. A  
14 ~~certificate of registration as provided for in sections 81-8,184 to~~  
15 ~~81-8,208~~ license shall be presumptive evidence that the person named  
16 therein is legally ~~registered.~~ licensed.

17           Sec. 15. Section 81-8,199, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           81-8,199 The board shall issue a certificate of  
20 ~~registration as a professional landscape architect~~ licensure to each  
21 successful applicant upon payment of the annual fee. Each certificate  
22 shall be signed by two members of the board under the seal of the  
23 board. The certificate, ~~which~~ shall authorize the applicant to  
24 practice professional landscape architecture, ~~as defined in sections~~  
25 ~~81-8,184 to 81-8,208.~~

1           Sec. 16. Section 81-8,200, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           81-8,200 Certificates of ~~registration~~licensure shall  
4 expire on the last day of December following their issuance or  
5 renewal and shall become invalid on that date unless renewed before  
6 the expiration date with the payment of a fee in an amount the board  
7 shall determine. The board shall notify every ~~person registered under~~  
8 ~~the provisions of sections 81-8,184 to 81-8,208~~ licensee of the  
9 expiration date of his or her certificate and the amount of the  
10 annual renewal fee at least one month in advance. The fee to be paid  
11 for the renewal of a certificate after December 31 shall be increased  
12 by ten percent for each month or fraction of a month such payment is  
13 delayed, ~~;-except that;~~ the maximum fee for a delayed renewal shall  
14 not exceed twice the amount of the original renewal fee and no  
15 renewals shall be made after a lapse of one year ~~from~~after the  
16 original expiration date thereof. Renewal fees shall not be required  
17 while the professional landscape architect is on active duty with the  
18 armed forces of the United States. Application for renewal of a  
19 lapsed ~~registration~~license shall be in the same manner as provided  
20 for an original application pursuant to section 81-8,196.

21           Sec. 17. Section 81-8,200.01, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           81-8,200.01 (1) ~~Beginning in 1986, as~~ As a condition for  
24 renewal of a certificate of ~~registration~~licensure issued pursuant to  
25 ~~sections 81-8,184 to 81-8,208,~~ the Professional Landscape Architects

1 ~~Act, a certificate holder~~ licensee shall be required to successfully  
2 complete fifteen hours of professional development within the  
3 preceding calendar year.

4 (2) ~~The State Board of Landscape Architects board~~ shall  
5 not renew the certificate of ~~registration~~ licensure of any  
6 ~~certificate holder~~ licensee who has failed to complete the  
7 professional development requirements pursuant to subsection (1) of  
8 this section, unless he or she can show good cause why he or she was  
9 unable to comply with such requirements. If the board determines that  
10 good cause was shown, the board shall permit the ~~registered landscape~~  
11 ~~architect~~ licensee to make up all outstanding required hours of  
12 professional development.

13 Sec. 18. Section 81-8,200.02, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 81-8,200.02 ~~The State Board of Landscape Architects board~~  
16 shall adopt and promulgate ~~such administrative procedures and rules~~  
17 and regulations as are necessary for the effective delivery and  
18 ~~certification~~ licensure of all programs of professional development  
19 required in section 81-8,200.01.

20 Sec. 19. Section 81-8,201, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 81-8,201 The board may ~~certify for registration~~ license  
23 without examination any applicant who is legally licensed or  
24 registered as a professional landscape architect in any other state,  
25 territory, or country whose requirements for licensure or

1 registration are at least substantially equivalent to or higher than  
2 ~~the requirements of the provisions of sections 81-8,184 to 81-8,208~~  
3 the Professional Landscape Architects Act and which extends the same  
4 privileges of reciprocity to professional landscape architects  
5 ~~registered-licensed~~ in this state and who has actively practiced for  
6 at least one of the three years immediately preceding the application  
7 for ~~registration-licensure~~ without examination. The application for  
8 reciprocal ~~registration-licensure~~ shall be accompanied by a fee in an  
9 amount the board shall determine.

10           Sec. 20. Section 81-8,202, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           81-8,202 The board ~~shall have the power~~ may by a four-  
13 fifths vote of the entire board ~~to place a registered-licensed~~  
14 professional landscape architect on probation or ~~to~~ revoke or suspend  
15 the ~~certificate-license~~ of any professional landscape architect  
16 ~~registered-licensed~~ under the Professional Landscape Architects Act  
17 whom it finds guilty of (1) deceit in obtaining a ~~certificate,~~  
18 license, (2) fraud, (3) gross negligence, (4) incompetency, or (5)  
19 misconduct in the practice of professional landscape architecture.  
20 Such person shall have the right to appeal the revocation or  
21 suspension of his or her ~~certificate of registration,~~ license, and  
22 the appeal shall be in accordance with the Administrative Procedure  
23 Act.

24           Sec. 21. Section 81-8,203, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   81-8,203 Warrants for the payment of expenses and  
2 ~~compensations~~ compensation provided by ~~sections 81-8,184 to 81-8,208~~  
3 the Professional Landscape Architects Act shall be issued by the  
4 Director of Administrative Services upon presentation of vouchers  
5 drawn by the ~~chairman,~~ chairperson, but at no time shall the total  
6 amount of warrants exceed the total amount of fees collected as  
7 provided by the ~~provisions of sections 81-8,184 to 81-8,208.~~ act.

8                   Sec. 22. Section 81-8,204, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10                   81-8,204 No person shall practice as a professional  
11 landscape architect or in any manner designate himself or herself as  
12 a professional landscape architect unless he or she has been issued a  
13 certificate of ~~registration~~ licensure pursuant to ~~sections 81-8,184~~  
14 ~~to 81-8,208.~~ the Professional Landscape Architects Act. If such  
15 person does practice or attempt to practice under the designation of  
16 professional landscape architect, he or she may be restrained under  
17 permanent injunction.

18                   Sec. 23. Section 81-8,205, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20                   81-8,205 Any person who violates ~~such~~ a permanent  
21 injunction obtained pursuant to section 81-8,204, presents or  
22 attempts to file as his or her own the certificate of ~~registration~~  
23 licensure of another, ~~who shall give~~ gives false or forged evidence  
24 of any kind to the board in obtaining a certificate of ~~registration,~~  
25 ~~who~~ licensure, indorses any document which he or she did not actually

1 prepare or supervise the preparation thereof, ~~who shall falsely~~  
2 ~~impersonate~~ impersonates another practitioner of like or different  
3 name, or ~~who shall use~~ uses a revoked certificate of ~~registration~~  
4 licensure shall be deemed guilty of a Class III misdemeanor.

5           Sec. 24. Section 81-8,206, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           81-8,206 The ~~provisions of sections 81-8,184 to 81-8,208~~  
8 Professional Landscape Architects Act shall not apply to:

9           (1) Any person who is an employee of a ~~registered~~  
10 licensed professional landscape architect and who performs landscape  
11 architectural work under the direction and supervision of a  
12 ~~registered licensed professional landscape architect~~, but such work  
13 ~~shall does~~ not include responsible change of design or administration  
14 of construction contracts;

15           (2) Any full-time employee who performs landscape  
16 architectural work for his or her employer when all such work is in  
17 connection with a facility owned or operated by the employer and when  
18 such work does not endanger the public welfare, health, and safety,  
19 and when the service is not offered to the public;

20           (3) Any architect or professional engineer, but such  
21 architect or engineer may not use the title landscape architect or  
22 professional landscape architect unless he or she is ~~registered~~  
23 licensed pursuant to sections 81-8,184 to 81-8,208; the act; or

24           (4) Any person who seeks advice or help of any other  
25 person in planning, planting, or maintaining the planting or

1 conservation work on any property he or she owns or controls or who  
2 does such things himself or herself.

3           Sec. 25. Original sections 81-8,184, 81-8,185, 81-8,186,  
4 81-8,189, 81-8,190, 81-8,191.01, 81-8,192, 81-8,193, 81-8,195,  
5 81-8,196, 81-8,197, 81-8,198, 81-8,199, 81-8,200, 81-8,200.01,  
6 81-8,200.02, 81-8,201, 81-8,202, 81-8,203, 81-8,204, 81-8,205,  
7 81-8,206, and 81-8,208, Reissue Revised Statutes of Nebraska, and  
8 section 81-8,194, Revised Statutes Cumulative Supplement, 2010, are  
9 repealed.